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ATTORNEYS FOR IBM CREDIT, LLC

**UNITED STATE BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In Re:	)	
	)	Chapter 11
	)	
BEARINGPOINT, INC., <i>et al.</i> ,	)	Case No. 09-10691
	)	
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	

**IBM CREDIT, LLC'S RESPONSE TO DEBTORS ELEVENTH OMNIBUS  
OBJECTION TO PROOFS OF CLAIM  
NO LIABILITY CLAIMS**

IBM Credit LLC (“IBM Credit”), by and through its attorney, J. Michael McBride with J. Michael McBride, P.C., hereby files this Response to BearingPoint, Inc.’s (“BearingPoint”) Eleventh Omnibus Objection to Proofs of Claim (“Objection”) whereby BearingPoint denied liability for Claim No. 1040 filed by IBM Credit. In support of its claim, IBM Credit states as follows:

A Response to Debtor’s Objections was due on or before July 25, 2010. Pursuant to an agreement with Debtor’s Counsel, IBM Credit was given a five day extension to file a response. Therefore, this response is timely filed.

1. From May 26, 2008 through June 04, 2008, IBM Credit provided training and related services to BearingPoint costing \$13,309.61. IBM Credit issued two (2) invoices reflecting these services (“Invoices”) on June 2, 20008.

2. Also, on June 2, 2008, IBM Credit issued another two Invoices (“Invoices”) in the amount of \$1,364.29 and for \$895.74. These Invoices were for taxes on items or services purchased by BearingPoint prior to their February 18, 2009 petition date. All Invoices supporting the amounts due to IBM Credit are attached to the Claim.

3. On September 22, 2009, IBM Credit timely and properly submitted a Proof of Claim for the unpaid Invoices in these Chapter 11 proceedings (“Claim”). On June 29, 2010, the Debtor filed the Objection.

4. BearingPoint has failed to provide any detail, evidence, or other factual background as to the basis of its Objection other than an unsupported declaration that the amount of the Claim is not owed by the Debtor.

### **RELIEF REQUESTED**

5. IBM Credit respectfully request that this Court deny the Debtor’s Objection and allow the Claim in full.

### **BASIS FOR RELIEF REQUESTED**

6. IBM Credit renews its claim that the Invoices remain unpaid and that Debtor owes IBM Credit \$15,569.64. The Claim should be allowed` the Debtor as part of the Debtor’s distribution to unsecured creditors.

7. The Debtor has failed to provide any detail, evidence, or factual background in its Objection for the proposition that the Claim in the amount of \$13,309.61 is not owed by the Debtor. The Debtor has not claimed that the training

services provided by IBM and referenced in the Invoices were not received by the Debtor nor that the Debtor is not obligated to pay the amount due under the Invoices. Thus IBM Credit is at a loss as to why this Objection is being pursued.

8. Debtor has indicted that \$2,260.03 of the claim has no merit because the charges are for sales tax on a non taxable (TX Online) project. The taxes assessed were for goods or services purchased pre petition.

9. IBM Credit has provided evidentiary support for its Claim in the form of Invoices attached its Claim. IBM Credit has also submitted the same Invoices to Debtor's counsel via email on July 21, 2010 without any response. The Debtor has only offered an unsupported declaration that the claim is not owed. Such a declaration is insufficient to support an objection to the claim. Absent any evidentiary support that the Debtor does not owe IBM Credit the amount of the Claim, it should be assumed that the Invoices remain unpaid and the Claim should be allowed.

For the foregoing reasons, the Debtor's Objection to IBM Credit's Claim No. 1040 should be denied and the Claim should be allowed.

Respectfully submitted this 30<sup>th</sup> day of July 2010.

J. MICHAEL MCBRIDE, P.C.

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## CERTIFICATE OF SERVICE

I hereby certify that on the 30<sup>th</sup> day of July, 2010, a true and correct copy of **IBM Credit LLC's Response to Debtor's Eleventh Omnibus Objections to Proofs of Claim** was served via ECF on all parties entitled to receive notice by ECF and by U.S. first class mail on the parties shown below:

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